

REMARKS

Applicant wishes to thank the Examiner for withdrawing the previous prior art rejections. Presently claims 1-4, 6-10, 12-15 and 17-51 stand rejected pursuant to 35 U.S.C. § 102(e) as being anticipated by Van Zoest et al (U.S. Patent No. 6,609,105). Claims 5 and 11 also stand rejected pursuant to 35 U.S.C. § 103, over Van Zoest et al in view of Official Notice concerning installation in an automobile and ATRAC3 format. The Applicant respectfully traverses the rejections.

Essentially, the entirety of the Examiner's present rejection relies on the disclosure of Van Zoest et al. Van Zoest et al is a United States patent issued August 19, 2003 and published May 23, 2002. However, the Van Zoest et al. patent only claims priority to a U.S. Provisional patent application having a date of only January 7, 2000. For the reasons and facts contained in the declarations of Joseph Littenberg, Christopher Tobin and Gregory Gudorf concerning Mr. Gudorf's prior invention submitted pursuant to 37 C.F.R. § 1.131, Van Zoest et al is not prior art. The Applicant conceived of the invention prior to the effective filing date of the Van Zoest et al. reference. Moreover, Applicant exercised diligence from immediately prior to the priority date of the Van Zoest et al. reference through to the date of the filing of Applicant's provisional application by contacting in house patent counsel prior to the priority date of Van Zoest et al., who then on Applicant's behalf, diligently arranged for a search, assessed the patentability of the invention and arranged for outside counsel to prepare the provisional patent application. Outside counsel similarly exercised diligence on behalf of Applicant by diligently preparing and filing the provisional patent application in response to in house counsel's request. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

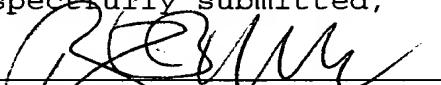
If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

By

  
Raymond B. Churchill, Jr.  
Registration No.: 44,617  
LERNER, DAVID, LITTENBERG,  
KRUMHOLZ & MENTLIK, LLP  
600 South Avenue West  
Westfield, New Jersey 07090  
(908) 654-5000  
Attorney for Applicant

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